

REMARKS

Claims 44-54 are pending. Claims 44-54 are rejected. For record, claims 44-54 were previously allowed. Claims 37-42 and 55 were canceled.

Rejections under 35 U.S.C. §112, second paragraph

Claims 50-52 have been rejected as being indefinite under 35 U.S.C. §112, second paragraph, for allegedly failing to provide an antecedent basis for “carboxylic acid comonomer.” Applicants believe the amendment in this response cures the rejections.

Rejections under 35 U.S.C. §102

Claims 44-46 and 53-54 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,631,328 to Wang et al. (“Wang”).

Claim 44 defines a method of coating an implantable medical device. The method comprising (1) adding a copolymer of an ethylene comonomer with **a carboxylic acid comonomer** to a solvent system to form a composition, (2) applying the composition to an implantable medical device, and (3) allowing the solvent system to evaporate.

Wang describes forming a composition of ionomers that can form a film (col. 6, lines 17-63). The composition can be formed of three monomers: (a) an alpha-olefin, (b) **an ester** of alpha, beta-ethylenically-unsaturated carboxylic acid, and (c) **a metal salt** of acrylic or methacrylic acid (col. 4, line 59 through col. 5, line 63). **Wang does not describe forming a coating including a copolymer of an ethylene comonomer with a carboxylic acid comonomer. Esters of a carboxylic acid and metal salts of a carbox-**

ylic acid are totally different chemical entities from the carboxylic acid. In addition, esters of a carboxylic acid and metal salts of a carboxylic acid have totally different physical and mechanical properties than the carboxylic acid. For example, as an ordinary artisan would recognize, an ester of a carboxylic acid is more hydrophobic than the carboxylic acid. Conversely, a metal salt of the carboxylic acid is more hydrophilic than the carboxylic acid. A film formed of an ester of a carboxylic acid or a metal salt of a carboxylic acid would have totally different physical, mechanical, or drug release properties than a film formed of a carboxylic acid. A key aspect of the Wang reference is to use a combination of an ester and metal salt of a carboxylic acid monomers for forming a film which has low haze (col. 1, lines 13-19), which attests to the different film properties that different monomers in a polymer of the film can impart to the film.

Accordingly, claim 44 is patentably allowable over Wang. Claims 45, 46, 53 and 54 depend from claim 44 and are patentably allowable over Wang for at least the same reason.

Rejections under 35 U.S.C. §103

Claims 47, 48, and 50-52 are rejected under 35 U.S.C. 103(a) as being obvious over Wang in view of U.S. Patent No. 6,087,412 to Chabreck et al. ("Chabreck").

Claims 47, 48 and 50-52 depend from claim 44, which is discussed above, and therefore require a copolymer of an ethylene comonomer with a carboxylic acid comonomer.

Chabreck describes a macromer that include a segmented copolymer which is an

amide (col. 1, line 20 through col. 2, line 23). Chabreck does not **describe a copolymer of an ethylene comonomer with a carboxylic acid comonomer.** Therefore, Chabreck does not cure the deficiencies of Wang, which is discussed above. Therefore, claims 47, 48 and 50-52 are patentably allowable over Wang in view of Chabreck.

Claim 49 is rejected as being obvious over Wang in view of U.S. Patent No. 4,729,914 to Kliment et al. ("Kliment").

Claim 49 depends from claim 44, which is discussed above, and therefore requires **a copolymer of an ethylene comonomer with a carboxylic acid comonomer.**

Kliment describes forming an N-vinylpyrrolidone copolymer that can include ethylenic monomers such as hydroxyethyl methacrylate or hydroxypropyl acrylate. **Hydroxyethyl methacrylate or hydroxypropyl acrylate is an ester of methacrylate or acrylate, which is not a carboxylic acid monomer** (see the discussion of Wang, *supra*). Therefore, Kliment does not describe **a copolymer of an ethylene comonomer with a carboxylic acid comonomer** and thus does not cure the deficiency of Wang. Accordingly, claim 49 is patentably allowable over Wang in view of Kliment.

The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. 07-1850.

CONCLUSIONS

Withdrawal of the rejection and allowance of the claims are respectfully requested.

If the Examiner has any suggestions or amendments to the claims to place the claims in condition for allowance, applicant would prefer a telephone call to the under-


signed attorney for approval of an Examiner's amendment. If the Examiner has any

questions or concerns, the Examiner is invited to telephone the undersigned attorney at

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Respectfully submitted,



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